



# Austin City Council MINUTES

For FEBRUARY 4, 1988 - 1:00 P.M.

Council Chambers, 307 West Second Street, Austin, Texas

## Memorandum To:

Mayor Pro Tem Trevino called to order the meeting of the Council, noting the absence of Mayor Cooksey.

### MINUTES APPROVED

The Council, on Councilmember Carl-Mitchell's motion, Councilmember Humphrey's second, approved the minutes for regular meeting of January 28, 1988 and special meeting of January 26, 1988. (4-0 Vote, Councilmembers Shipman and Urdy out of the room, Mayor Cooksey absent)

### CITIZEN COMMUNICATIONS

Ms. Donna Carter, Ms. Ruth Parshall and Mr. Juan E. Cotera discussed the Austin Minority Alliance. Mr. U. Marcus Lester and Mr. Kenneth Benton talked about hazardous living conditions in public housing facilities.

### ITEMS POSTPONED

Postponed until February 11, 1988 is the Blacklands Development Proposal introduced by Mayor Cooksey.

Postponed to February 11, 1988 is consideration of authorization of a license agreement with the Texas Air Control Board for location of an air quality monitoring station on City property.

Postponed to February 11, 1988 is consideration of approval of contracts for services with Social Services Provider Agencies.

Postponed to February 11, 1988 is consideration of amending the 1987-88 Annual Operating Budget by accepting \$200,000.00 from Austin Cablevision; appropriating \$160,000.00 from the General Fund to the Social Services Operating Budget; and appropriating and transferring \$40,000.00 from the General Fund to the Cultural Arts Fund.

### ITEMS ALREADY DISCUSSED

On February 2, 1988 at the special called meeting, Council discussed and approved an item relating to 100 Congress Building - Colorado Street Property; and City Manager Reports on Comprehensive Assessment of cost of service for the Parks and Recreation Department;

as well as Comprehensive Assessment of cost of service for the Emergency Medical Services Department.

#### OLD BUSINESS - ORDINANCES

The Council, on Councilmember Carl-Mitchell's motion, Councilmember Humphrey's second, passed through second/third readings of ordinances amending Chapter 13-2A of the Austin City Code (Zoning Ordinance) to cover the following changes: (6-0 Vote, Mayor Cooksey absent)

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|---|--|--|
| (1) MOORE'S CROSSING<br>JOINT VENTURE<br>C14-86-155 | FM 973, Elroy<br>Road, Ross Road<br>and McAngus Road | From "I-RR"<br>to "GR", "LI", "RR"<br>"IP". "SF-2", "P"<br>"MF-2" & "LR" |
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First reading on January 8, 1987 (5-0). Mayor Pro Tem Trevino out of the room at roll call. Conditions have been met as follows: Restrictive Covenant incorporating conditions imposed by Council has been executed.

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|--|-------------------------------|--------------------------|
| (2) HOUSING AUTHORITY<br>OF TRAVIS COUNTY<br>By Zunia Zaterman<br>C14-87-097 | 4922 Nuckols<br>Crossing Road | From "SF-2"<br>to "MF-1" |
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First reading on July 30, 1987, (5-0). Mayor Cooksey and Mayor Pro Tem Trevino out of room at roll call. Conditions have been met as follows: Restrictive Covenant incorporating conditions imposed by Council has been executed. Right-of-way on Nuckols Crossing Road has been dedicated by Street Deed.

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|--|------------------------|----------------------|
| (3) C.B. FRANCIS<br>By Carole Rylander<br>C14-86-320 | 10415 Morado<br>Circle | From "LO"<br>to "GO" |
|--|------------------------|----------------------|

First reading on February 26, 1987, (7-0). Conditions have been met as follows: Restrictive Covenant incorporating conditions imposed by Council has been executed.

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|--------------------------------|---------------------------|------------------------|
| (4) J.D. COCHRUM<br>C14-87-130 | 10412 Double<br>Spur Loop | From "DR"<br>to "SF-1" |
|--------------------------------|---------------------------|------------------------|

First reading on October 29, 1987, (6-0). Councilmember Nofziger out of room at roll call. Conditions have been met as follows: Restrictive Covenant incorporating conditions imposed by Council has been executed.

#### CONSENT ORDINANCES

The Council, on Councilmember Carl-Mitchell's motion, Mayor Pro Tem Trevino's second, waived the requirement for three readings and finally passed the following ordinances all in one consent motion: (6-0 Vote, Mayor Cooksey absent)

Operating Budget Amendment

Amended the 1987-88 Annual Operating Budget by transferring and appropriating \$90,499.00 for payment of water use fee to the Barton Springs-Edwards Aquifer Conservation District.

Legal Description of Zoning Ordinance Corrected

Amended the following zoning ordinance to correct the legal description:

- a. Ordinance No. 870917-B, Zoning Case No. C14-87-012 locally known as 3404 Oak Springs Drive.

Gas Rates

Approved natural gas rates for Southern Union Gas within the City of Austin.

CONSENT RESOLUTIONS

The Council, on Councilmember Carl-Mitchell's motion, Mayor Pro Tem Trevino's second, adopted the following resolutions all in one consent motion: (6-0 Vote, Mayor Cooksey absent)

Capital Improvements Program

Approved acquisition of 18,919 square feet of water and wastewater easement and 21,288 square feet of temporary worksapce easement for the Riverside Drive Water Transmission Main Project. C.I.P. No. 85/22-50.

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Authorized the filing of Eminent Domain Proceedings to acquire: C.I.P. Nos. 85/62-32 & 85/62-01

- a. 0.386 acres in fee simple, 2,400 square feet of land for a slope easement and 27,029 square feet for permanent drainage easements out of the J.D. Tannehill League Survey in the City of Austin, Travis County, Texas, owned by Peter M. Lowry and Lynn Lowry Burke, Co-Trustees of the Frederick C. Lowry Testamentary Trust, and others for the Loyola Lane Project.
- b. 0.912 acre (39,742 square feet) of land in fee simple out of the George W. Davis Survey No. 15 in Travis County, Texas from 1776 Incorporated for the U.S. Highway 183 Expansion Project.
- c. 0.011 acre (460 square feet) of land in fee simple out of the George W. Davis Survey No. 15 in Travis County, Texas

owned by The Creative Dining Division of General Mills Restaurant Group, Inc. for the U.S. Highway 183 Expansion Project.

- d. 0.316 acre (13,784 square feet) of land in fee simple out of Lot 1, Taylor-Williams Subdivision and out of the James Rodgers Survey, No. 19, all in the City of Austin, Travis County, Texas owned by Rolls Oil Company, Inc. for the U.S. Highway 183 Expansion Project.

### Change Orders

Approved of the following Change Orders:

- a. In the amount of \$41,656.56 to Lewis Contractors, Inc., for the Rogers Lane and Nixon Lane Water and Wastewater Service Contract. (5.1% increase of the original contract amount of \$814,497.55 - Total change orders to date equal 12.0%) C.I.P. Nos. 85/22-09 & 85/23-09
- b. In the amount of \$81,634.70 to Staker Paving of Texas for Jollyville Road Phase II Street and Drainage Improvements. (4% increase of the original contract amount of \$1,830,737.93 - Total change orders to date equal to 10.4%) C.I.P. No. 84/62-14

### Contracts Approved

Approved the following contracts:

- a. AUSTIN ENGINEERING COMPANY, INC. - CAPITAL IMPROVEMENTS PROGRAM -  
P. O. Box 161990 MoPac (Loop 1) at Highway 183  
Austin, Texas (Research Boulevard) Water  
Relocation, Water and Wastewater  
Utility Department  
Total \$383,750.00 C.I.P. No.  
86/22-39
- b. CAPITAL CITY UTILITIES - CAPITAL IMPROVEMENTS PROGRAM -  
P.O. Box 670 Construction of Dessau Road  
Buda, Texas 16" Transmission Main Phase I,  
Water and Wastewater Utility  
Department  
Total \$180,975.00 C.I.P. No.  
85/22-22
- c. POLELINE ELECTRIC SUPPLY - CAPITAL IMPROVEMENTS PROGRAM -  
4111-G Todd Lane Upgrading Two 138KV Insulators  
Austin, Texas and Hardware Materials Transmission  
Lines, Electric Utility Department  
Items 1, 8 & 10 - \$33,458.30  
C.I.P. Nos. 88/13-01 & 88/12-01

d. SOUTHERN SAFETY SALES  
P. O. Box 4065  
Austin, Texas

- Needles and Syringes, Brackenridge  
Hospital  
Twelve (12) Month Supply Agreement  
Total \$110,831.90 BS8-106

Unmarked Police Vehicles

Approved authorizing the use of unmarked Austin Police Department vehicles for official use pursuant to V.A.C.S. Article 6701m-2 as amended.

Water Resources Investigations

Authorized execution of a joint agreement for water resources investigations between the City and the Geological Survey, U.S. Department of the Interior.

Restrictive Covenant Terminated

Approved the termination of Restrictive Covenant for Zoning Case No. C14-84-298, 3881-3903 Spicewood Springs Road.

Grant Application

Authorized submission of a grant application to the Governor's Office, Criminal Justice Division in the amount of \$76,540.00 for the purpose of providing continued funding for the Victim Assistance Program of the Austin Police Department.

Public Hearing Set

Set a public hearing on the following:

- a. The Enterprise Zone Application: February 18, 1988 at 6:00 p.m.

**DOWNTOWN COMMISSION REPORT**

Mr. Rick Meyer, Downtown Commission, reported to Council concerning State Department of Highways and Public Transportation Study of I.H. 35.

**ELISABET NEY MUSEUM REPORT**

Gregory Free and Mary Ann Edwards, members of the Elisabet Ney Museum Advisory Board, presented a board update on museum activities.

## CONGREGATE CARE FACILITY &amp; GROUP HOMES

The Council had before them for consideration ordinances amending:

- (1) Chapter 13-2A by adding three new "Congregate Care Facility" definitions for facilities with more than 15 residents.
- (2) Chapter 13-2A (Revised Zoning Regulations) modifying existing Group Home" definition, adding a new definition of "Family Home" to be consistent with State Law.

Councilmember Shipman told Council, "I would like to suggest that on the item "group homes" amendment to the Zoning Ordinance, that we propose amendments to the ordinance which is on the table right now which is the first reading on the recommendation of the Planning Commission; that we accept all amendments for consideration for second and third reading and that we ask the staff to prepare a legislative draft so that it can be available publicly and when Council acts we can act in response to the legislative draft and vote on those amendments at that time. If the Council will agree to that. I believe Mayor Pro Tem has stepped out but he will be right back. Well, let's do that then, and Mr. Nofziger, I believe you have some amendments to propose."

Councilmember Nofziger stated his proposed amendment as follows: "Under Group Home, Class I (General)-- add clause 'and residential rehabilitation for alcohol and chemical dependence for 15 or fewer individuals.' Under Group Home, Class II-- omit the clause 'and residential rehabilitation centers for alcohol and drug abusers.' Add a C 'Conditional Use' under SF for Group Home I (General) only.

"This amendment is good for a number of reasons. It will allow a facility like The Cottage, which was brought before the Planning Commission, to exist in single family. It will accommodate the "AGE" facility in the Confederate Women's Home, which will be before the Planning Commission. I think this will be a good amendment to the Planning Commission recommendation."

Councilmember Shipman stated, "The staff will prepare that in line with the Planning Commission recommendations but with the following amendment in legislative form. I would like to propose the following amendment for consideration for that draft, also:

Definition: that we split the congregate living category into two parts, based on the size of the facility, that there be:

Congregate Living Class I, which would be 16-30 residents  
Congregate Living Class II - more than 30 residents

Residential Treatment Class I - 16 to 30 residents  
Residential Treatment Class II - more than 30 residents

Delete Transitional Housing from the ordinance and refer it for further study back to the Planning Commission

Delete 1/2 mile waiver provision in Sec. 4240(a) and 4240(b)

Change the definition of disability to conform with 29 U.S.C. Section 706(8)(b) of Federal Law

Usage standards for facilities shall conform with residential density standards as found in the Zoning Ordinance (i.e. MU standards and MF density standards.)

"I would like to also add that under Residential Treatment, Classes I and II, that we delete 'including residents in lieu of institutional sentencing'. That that be proposed in the legislative draft. And lastly, rather than go through permitted and conditional uses amended as follows, I will only go through single family and hand the rest of them to the City Clerk. Again, this is for the draft which will be considered in legislative form. The difference is in the splitting of the categories, which will be reflected accordingly. Also, in addition to Councilmember Nofziger's amendment, that we place, as a Conditional Use Group Home Category II and Congregate Living Category I and Residential Treatment Category I for consideration as SF conditional use. That would be in the legislative draft and my final motion would be that this legislative draft be presented to Council for second and third readings next Thursday (February 11, 1988)."

Following is the information for the record presented by Councilmember Shipman:

Permitted and conditional uses amended as follows:

	SF	MF	MH	NO	LO	GO	LR	GR	L	CBD	DMU	CS	CS1	CH	IP	LI	MI	DR	P
FH	P	P	P	P	P	P	P	P	PC	P	P	P	P	P	P	P	P	P	- P
GHI LIM	P	P	P	P	P	P	P	P	PC	P	P	P	P	P	P	P	P	P	- P
GHI	C	P	P	P	P	P	P	P	PC	P	P	P	P	P	P	P	P	P	- P
GH II	C	C	C	C	C	P	C	P	PC	P	P	P	P	P	P	P	P	P	- C
CL I	C	C	C	C	C	P	C	P	PC	P	P	P	P	P	P	P	P	P	- C
CL II	-	C	C	C	C	P	C	P	PC	P	P	P	P	P	P	P	P	P	- C
RT I	C	C	C	C	C	C	C	P	PC	P	P	P	P	P	P	P	P	P	- C
RT II	-	C	C	C	C	C	C	P	PC	P	P	P	P	P	P	P	P	P	- C

Roll Call on Motion

Motion made by Councilmember Shipman and seconded by Councilmember Nofziger to pass through FIRST READINGS ONLY of ordinances

amending (1) Chapter 13-2A by adding three new "Congregate Care Facility" definitions for facilities with more than 15 residents; and (2) Chapter 13-2A (Revised Zoning Regulations) modifying existing "Group Home" definition, adding a new definition of "Family Home" to be consistent with State Law; with amendments to both and legislative draft is to be presented to Council for second/third readings on February 11, 1988. (6-0 Vote, Mayor Cooksey absent)

#### LEASE FOR GENERAL SERVICES DEPARTMENT

The Council, on Councilmember Shipman's motion, Mayor Pro Tem Trevino's second, adopted a resolution approving a contract with Trammell Crow Co. regarding the lease of a shop maintenance and warehouse building for the General Services Department in the amount of \$86,903.00. (6-0 Vote, Mayor Cooksey absent)  
FUNDING EROSION PROBLEMS

Councilmember Urdy introduced to Council a discussion concerning setting a policy on funding erosion problems by the use of drainage districts.

#### STNP

Councilmember Nofziger discussed commencing the STNP Education Campaign, and also talked about the possibility of inviting GAP representatives and whistleblowers at STNP to make a presentation to the Austin City Council.

#### PUBLIC HEARING - APPEAL

Mayor Pro Tem Trevino opened the public hearing set for 3:00 p.m. on an appeal from Mr. Geoffrey Palter of the decision to issue a construction permit to Mr. Larry Taub for a boat dock to be located at 5911 Cone Circle.

Jonathan Davis, Acting City Attorney, recommended to Council that the appeal be denied. He said a lawsuit has been filed to determine rights of respective parties.

Robert Bradshaw, representing Larry Taub, asked Council to deny the appeal.

Geoffrey Palter told Council the homeowners association is going to develop a master site plan along Bull Creek and Mr. Taub's boat dock will interfere with the planning.

#### Motion

Councilmember Shipman made a motion as follows: "Because of the legal cloud surrounding this permit, because of the information that has been presented both in writing and to the Council through a public hearing, I feel like issuance of this permit is detrimental to the public health safety and welfare, it is not in the public interest, and I move that we uphold the appeal". Councilmember Humphrey seconded the motion which passed by a vote of 4-1-0, with Mayor Pro Tem Trevino voting No, Councilmember Urdy out of the room and Mayor Cooksey absent)

## EXECUTIVE SESSION

Mayor Pro Tem Trevino announced Council would go into Executive Session pursuant to Article 6252-17, Texas Revised Civil Statutes Annotated, to discuss matters of land acquisition, litigation, and for personnel matters. No final action, decision or vote by the City Council will be taken on any subject or matter unless specifically listed on the agenda for this meeting.

## 1. Pending Litigation - Section 2, Paragraph e

(a) City of Austin v. Houston Lighting and Power

## RECESS

Council recessed its meeting from 3:45 p.m. to 4:50 p.m.

## ZONING HEARING

Mayor Pro Tem Trevino announced Council would hear the following zoning case. Council heard, closed the public hearing, and passed through FIRST READING ONLY of an ordinance approving the following zoning change:

-87	AMCOR INVESTMENTS	11700-12400 Hwy.	From "DR" & "I-RR"
179	CORP.	71 West	To "CR", "GO", "GR",
	By Brown, Maroney,	10300-11100 Hwy.	"GR-MU", "IP", "LO"
	Rose, Barber &	71 West	"MF-1", "P", "R & D"
	Dye	10900-12400 F.M.	"RR", "SF-1", "SF-2"
		2244	"SF-4" & "SF-6"
			<u>FIRST READING</u>

(On Councilmember Carl-Mitchell's motion, Mayor Pro Tem Trevino's second, 5-0 Vote, Councilmember Nofziger out of the room, Mayor Cooksey absent)

## APPROACH MAIN

The Council, on Councilmember Carl-Mitchell's motion, Mayor Pro Tem Trevino's second, adopted a resolution approving the following approach main: (5-0 Vote, Councilmember Nofziger out of the room, Mayor Cooksey absent)

NOTE: The amount of LUE's approved for wastewater commitment does not guarantee services in the event that the flows to affected treatment plants exceed legally permitted flows, and does not imply commitment for land use. (Water and Wastewater Commission recommends approval)

- a. 1278 The Uplands - Wastewater  
(estimated City cost reimbursement - \$1,250,000.00)

## APPOINTMENT

The Council, on Councilmember Shipman's motion, Councilmember Carl-Mitchell's second, appointed Brian Pieplow as a member of the Comprehensive Plan Steering Committee. (6-0 Vote, Mayor Cooksey absent)

## ENVIRONMENTAL PROTECTION AGENCY AGREEMENT

Ron Bond presented the City Manager Report on consideration of removal of condition 16 of the Environmental Protection Agency. He told Council, "I know that most of you are familiar with grant condition 16 to the South Austin Regional Plant. It basically provided that we were not to tie on any development downstream of the Williamson Creek Plant that was not in existence on November 26, 1980. At the time this grant condition was included, the City made known our strong objections to that process and EPA said we had to do an environmental impact statement and then we will consider removing the condition. We hired a consultant and have paid him about \$128,000 in 21 months to get to the environmental impact statement that has now been placed in final draft form. EPA did agree to remove condition 16 but they requested the substitution of three additional conditions to the South Austin regional grant. The three conditions were (1) We were not to connect the sewerage to any building in the 100-year flood plain, which we already provided for in our Comprehensive Watershed Ordinance; (2) That we cooperate with Bergstrom in publicizing the noise study around Bergstrom AFB, which we agreed to do; (3) We enter into a memorandum of agreement on archeological site protection and surveys in the entire service area of the Onion Creek interceptor. This is an unprecedented request as far as we can tell. Many times they have placed restrictions on the site work itself, but never have we found where EPA has included a requirement that a condition applies to an entire service area of an interceptor. It applies to all developments in the service area of the interceptor, not just City of Austin projects. There is a question as to whether or not we have the authority to impose these conditions on developments not inside our City but which are in our ETJ. Cost could vary from a few dollars to \$1,000,000.00. ....The memorandum of agreement requires us to develop a plan of cultural resources and says no towns would be completed until this plan is completed sometime in the future. This could take months or years. ....We have three basic options: (1) Give them back their money, which is \$9½-million, which is not a very desirable option from a financial standpoint for the utility; (2) Agree to what they ask and hope we can enforce it later on and maybe run into problems doing that; (3) Make a concerted effort, and this is what we are proposing, and try to negotiate with EPA for a more acceptable memorandum of agreement which would only require us to do what we legally can do and would limit our scope of enforcement of these agreements to the City and publicly controlled projects that we will be building in this area."

Motion

The Council, on Councilmember Shipman's motion, Mayor Pro Tem Trevino's second, approved Option 3 to negotiate further. (6-0 Vote, Mayor Cooksey absent)

ADJOURNMENT

Council adjourned its meeting at 5:01 p.m.